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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,290	07/19/2000	Robert Sackstein	0152.00378	2235

7590 07/28/2003  
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EXAMINER

GAMBEL, PHILLIP

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 07/28/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/619290

Applicant(s)

SACKSTEIN

Examiner

GAMBEL

Art Unit

1644

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) \_\_\_\_\_ is/are pending in the application. 1-27
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement. 1-27

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner. SEE OFFICE ACTION
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☒ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
  - I. Claims 1-4, drawn to a hemopoietic cell L-selectin ligand glycoprotein, classified in Class 530, subclass 300.
  - II. Claim 5, drawn to hemopoietic cell L-selectin ligand glycoprotein-specific antibodies, classified in Class 530, subclass 387.1.
  - III. Claims 6-9, drawn to a method of targeting cells expressing hemopoietic cell L-selectin ligand glycoprotein with specific immunotoxins, classified in Class 424, subclass 178.1.
  - IV. Claims 10-11, drawn to methods of selecting for and against cells expressing hemopoietic cell L-selectin ligand glycoprotein with appropriate antibodies, classified in Class 424, subclass 140.1.
  - V. Claim 12, drawn to a method of regulating hemopoiesis by selecting for cells expressing hemopoietic cell L-selectin ligand glycoprotein with appropriate antibodies and reinfusing said selected cells, classified in Class 424, subclass 93.71.
  - VI. Claims 13-14, drawn to a method of regulating inflammatory responses by administering hemopoietic cell L-selectin ligand glycoprotein-specific antibodies, classified in Class 424, subclass 143.1.
  - VII. Claims 15-16 drawn to a method of performing an overlay adherence assay, classified in Class 536, subclass 501.
  - VIII. Claims 17-18, drawn to a method of making a cytocentrifuge sample chamber, classified in Class 210, subclass 361.
  - IX. Claims 19-22, drawn to a cytocentrifuge sample chamber assembly, classified in Class 210, subclass 361.
  - X. Claim 23, drawn to a kit of modified sample chambers, classified in Class 210, subclass 361.
  - XI. Claim 24, drawn to methods of determining a pharmaceutical use by modifying L-selectin or E-selectin activity of a cell line, classified in Class 435, subclass 7.1.
  - XII. Claim 26-27, drawn to a cell line, classified in Class 435, subclass 326.

2. Inventions II and III/IV/V/VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as immunopurification procedures or diagnostic assays as well as the Inventions III/IV/V/VI.

3. Inventions VIII and IX are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)).

In the instant case, the cytocentrifuge sample chamber assembly can be made via a variety of means and elements and not limited to those elements claimed.

4. Inventions III/IV/V/VI/VII/VIII/XI are different methods of use. These inventions require different ingredients, process steps and endpoints to accomplish the use of hemopoietic cell L-selectin ligand glycoprotein-specific antibodies or immunotoxins. Therefore they are novel and unobvious in view of each other and are patentably distinct.

5. Inventions I/II/IX/X/XII are different products. Antibodies, proteins, cell lines, cytocentrifuge sample chambers and sample chambers are distinct because their structures and modes of action are different. Therefore they are novel and unobvious in view of each other and are patentably distinct.

6. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-XII is not required for any other group from Groups I-XII and Groups I-XII have acquired a separate status in the art because they encompass divergent subject matter and non-coextensive searches, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Formal drawings and photographs have been submitted which fail to comply with 37 CFR 1.84.  
Please see the enclosed form PTO-948.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

A. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

B. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, MUST be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings MUST be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in ABANDONMENT of the application.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phillip Gambel, PhD.

Primary Examiner

Technology Center 1600

July 28, 2003

*Phillip Gambel*